

**REMARKS**

Reconsideration of the rejections set forth in the Office Action mailed March 11, 2005, is respectfully requested. The Examiner has allowed claims 13-15, rejected claims 1-2 and 4-10 and objected to claims 3, 11 and 12. Applicants have amended claims 1-2 and 12. After amendment, claims 1-18 remain pending in the application. No new matter has been added by these amendments as can be confirmed by the Examiner.

**Rejections under 35 U.S.C. § 102(b)**

The Office Action has rejected claims 1, 2 and 4-10 under 35 U.S.C. § 102(b), as being anticipated by Kibblewhite. Applicant respectfully traverses this rejection. As amended, claim 1 requires that the processor determine, based upon the stored state of either the output shaft or the load shaft, when the elevated torque generating means generates an elevated torque. In contrast, Kibblewhite only discloses measuring time over a fixed interval of angle. See for example, Kibblewhite at Col. 4, lines 28-33 (“Measurement of the bolt rotation angle per impact is possible but difficult in practice because of the difficulty in making high resolution encoders necessary to detect the relatively small values of  $\Delta \phi$  (i.e.,  $2^\circ - 3^\circ$  at final tightening torques), and the difficulty in determining when an impact has occurred”) as well as Col. 4, lines 49-51 (“by measuring time over a fixed interval of angle, the need for high resolution encoders and determining when an impact has occurred is eliminated”).

Applicant respectfully submits that *measuring* time over a fixed interval of angle as disclosed in Kibblewhite is not the same thing as *determining*, based upon the stored state of either the output shaft or the load shaft, *when* the elevated torque generating means generates an elevated torque, as in claim 1. Thus, Applicant respectfully submits that claim 1 is in condition for allowance.

Claims 2-13 are dependent (either directly or through an additional dependent claim) on claim 1. Because claim 1 is allowable over Kibblewhite, claims dependent therefrom are allowable as well. Thus, Applicant respectfully submits that claims 2-13 are in condition for allowance as well.

**Objections to Claims**

The Office Action has objected to claims 3 and 11-12 as being dependent upon a rejected base claim. Applicant has amended the application to include new claims 16-18, which include all of the limitations of claims 3 and 11-12, respectively. Thus Applicant respectfully submits that claims 3 and 11-12 are in condition for allowance, which is respectfully requested.

**Allowed Claims**

Applicant acknowledges and thanks the Examiner for allowance of claims 13-15.

**CONCLUSION**

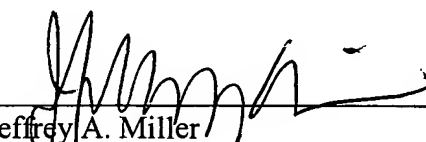
Applicant respectfully submits that is application is in condition for allowance, which is respectfully requested. Should the Examiner have any questions or comments on the application, the Examiner should feel free to contact the undersigned via telephone.

Respectfully submitted,

ORRICK, HERRINGTON & SUTCLIFFE LLP

Dated: June 8, 2005

By:

  
\_\_\_\_\_  
Jeffrey A. Miller  
Reg. No. 35,287

Four Park Plaza, Suite 1600  
Irvine, California 92614-2558  
(650) 614-7660



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450  
www.uspto.gov

### Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 05/27/05 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required. **Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted.** 37 CFR 1.121(h).

THE FOLLOWING CHECKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_
- ☐ 3. Amendments to the drawings: \_\_\_\_\_
- ☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following 7 status identifiers: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New) and (Not entered).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: Amended is not a proper status identifier.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given **ONE MONTH** from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this **ONE MONTH** time limit is **not extendable**.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION** (including a submission for an RCE), and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a **TIME PERIOD** of **ONE MONTH** from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. **The period for response to a final rejection continues to run from the date set in the final rejection**, and is not affected by the non-compliant status of the amendment.

  
Legal Instruments Examiner (LIE)  
Sheila Green

571-272-4352  
Telephone No.

RECEIVED

JUN 07 2005